

TITLE 14. Fish and Game Commission

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 203, 215, 219, 220, 331, 332, 1050, 1572, 4302, 4331, 4336, 4340, 4341 and 10502 of the Fish and Game Code and to implement, interpret or make specific sections 200-203.1, 207, 210, 215, 218, 219, 220, 331, 332, 713, 1050, 1570-1572, 3950, 3951, 4302, 4330-4333, 4336, 4340, 4341, 4652-4655, 4657, 4750-4756, 4902, 10500 and 10502 of said Code, proposes to amend Section 708, Title 14, California Code of Regulations, relating to big game license tag, application, distribution, and reporting procedures.

Informative Digest/Policy Statement Overview

Existing regulations specify conditions under which unsuccessful applicants may accrue points for use in future drawings. The proposed change implements a Modified Preference Point drawing system that awards a specified minimum portion of the tag quota for each hunt in the Big Game Drawing to those eligible applicants with maximum accrued points (Preference Point Drawing), and the remaining portion to applicants based on hunt choice and lowest, computer-generated random numbers, without consideration of accumulated points (Draw-By-Choice Drawing). Provisions of the Modified Preference Point drawing system are as follows:

Successful applicants who receive tags for their first choice premium deer, bighorn sheep, elk or pronghorn antelope hunts will lose all preference points for that species.

For party applications, the Department shall use the average preference point value of all party members (total preference points for the party divided by number of party members) as the basis for consideration in the drawing for that species. Point averages will not be rounded. Party applications for premium deer hunts will not be split to meet the tag quota if the number of party members exceeds the number of tags available. Such premium deer hunt party applications shall be bypassed until the quota is reached.

Persons who do not wish to apply for premium deer, bighorn sheep, elk or pronghorn antelope tags may earn one preference point for any or all of these species by submitting the appropriate application(s) and writing the point code number for that species, as defined by the Department, in the hunt choice box (first choice only for deer). Persons applying for a preference point in this manner are subject to the same application requirements as regular drawing applicants.

The Department shall maintain records of preference points earned by individual applicants based on the hunter identification number provided on each

application (driver's license number, Department of Motor Vehicles identification number, or hunter identification number assigned by the Department). Applicants shall notify the Department's License and Revenue Branch, at 3211 S Street, Sacramento, CA 95816, in writing, of any changes or corrections regarding name, mailing address or hunter identification number.

Persons not applying for premium deer, bighorn sheep, elk or pronghorn antelope hunts through the Department's Big Game Drawings for five consecutive years shall lose all preference points for that species. Persons whose applications are disqualified shall be considered the same as persons not applying. Applying for preference points as described above, will keep an applicant's file active.

For premium deer hunts with quotas of ten or less, one tag will be awarded using a Draw-By-Choice Drawing, whereas the remaining tags will be awarded using a Preference Point Drawing. For premium deer hunts with quotas greater than ten, 90 percent of the quota will be awarded using a Preference Point Drawing. Any fractional tags in the Preference Points portion will be rounded to the next higher whole number. Remaining tags will be awarded using a Draw-By-Choice Drawing.

For each junior deer hunt, 50 percent of the quota will be awarded using a Preference Point Drawing. Any fractional tags in the Preference Points portion will be rounded to the next higher whole number. Remaining tags for each junior deer hunt will be awarded using a Draw-By-Choice Drawing.

For bighorn sheep, elk and pronghorn antelope hunt quotas of four or less, one tag will be awarded using a Draw-By-Choice Drawing and the remaining tags will be awarded using a Preference Point Drawing. For quotas greater than four, 75 percent of the quota will be awarded using a Preference Point Drawing. Any fractional tags in the Preference Points portion will be rounded to the next higher whole number. Remaining tags will be awarded using a Draw-By-Choice Drawing. For bighorn sheep hunts, it is expected that from 50-65 percent of the cumulative quota will be awarded using Preference Point Drawings. From 35-50 percent of the cumulative quota will be awarded using Draw-By-Choice Drawings. For elk and pronghorn antelope hunts, it is anticipated that approximately 75 percent of the cumulative quotas will be awarded using Preference Point Drawings. Approximately 25 percent of the cumulative quotas will be awarded using Draw-By-Choice Drawings.

The proposal includes editorial changes for consistency and clarity. Specifically, the existing regulations are modified to refer readers to the regulatory changes.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Board of Supervisors Chambers, 981 H Street, Crescent City, California on Friday, October 25, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Monterey Beach Resort Hotel, 2600 Sand Dunes Drive and Highway 1, Monterey, California, on Friday, December 6, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before November 29, 2002 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than December 6, 2002, at the hearing in Monterey, CA. E-mail comments must include the true name and mailing address of the commenter.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Sherrie Koell at the preceding address or phone number. John Carlson, Wildlife Programs Branch, Department of Fish and Game, phone (916) 445-3555, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at http://www.dfg.ca.gov/fg_comm/.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The agency is not aware of any cost impacts that a representative business would necessarily incur in reasonable compliance with the proposed action. The proposed action does not adjust or set tag quotas, it merely defines how these quotas will be allocated to the public.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: The proposed changes would require modification of existing drawing programs in the Department's Hunter Information System. It is estimated that these changes will cost between \$50,000 and \$100,000. In addition to these one-time costs, the Department's License and Revenue Branch will incur ongoing personnel costs for maintenance of customer information related to point tracking (i.e., resolving duplicate customer records and researching application records to resolve customer disputes). Ongoing personnel costs are estimated at \$20,000-\$40,000 annually (0.5 - 1.0 PY at Program Tech II level).

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: October 1, 2002

John M. Duffy
Assistant Executive Director